

**REMARKS/ARGUMENTS**

This Amendment is submitted in response to the Office Action mailed September 25, 2007. The deadline for responding expires on December 26, 2007 since December 25, 2007 was a Patent Office Holiday.

**I. Introduction**

New Claims 51-72 have been added to add claims in a variety of formats. Claims 1-10 and 13-38 stand allowed. Claims 11-12, 35 and 40 were previously canceled. Accordingly, claims 1-10, 13-34, 36-45 and 51-72 are now pending in the application.

Claims 46-50 which were previously presented, have been canceled in the current amendment without prejudice rendering the §101 rejection of these claims moot.

In the office action claim 39, 41-45 were rejected under 35 USC §112, first paragraph. As will be discussed below, these claims are directed to subject matter which was clearly described and enabled by the specification as filed.

In view of the following remarks, is respectfully submitted that all of the claims are enabled, definite and none of the pending claims are anticipated or rendered obvious by the references of record.

## II. The Pending Claims Are Patentable

### 1. The rejection of claims 39 and 41-45 under 35 USC §112, First Paragraph Should be Withdrawn

The Examiner rejected claims 39 and 41-45 under 35 USC §112, first paragraph stating:

... the claim requires the terminal to make two power measurements at the same time, however, the terminal described in the specification have only one receiver, and thus it is not understood how they could measure two frequencies at the same time.

Applicant believes that claim 39 and claims 41-45 which depended therefrom were enabled as written but have amended the claim to further clarify it in the interest of quickly advancing the prosecution.

Applicant notes that the specification makes it clear that different tones may be used to communicate different pilots at the same time. See, for example, page 19, lines 4-9. Also see page 37 lines 9-10 which state "The first and second pilots can be transmitted at the same time if different tones are used for each pilot signal."

As is known in the art, a single receiver can receive a multi-tone signal and determine the energy, e.g., per tone energy, by separating the different tones according to frequency and determining the energy attributable to individual tones. In this manner, multiple energy measurements, corresponding to different signal components, such as tones, received during a time period, can be made by a single receiver.

Independent claim 39 has been amended to recite:

... means for determining from at least two different channel quality indicator values a transmission power required to achieve a desired signal to noise ratio at said wireless terminal, wherein said at least two different channel quality indicator values correspond to different power signal measurements made by said wireless terminal, **said different power signal measurements corresponding to different signal components but the same period of time**, said determined transmission power being a function of said at least two channel quality indicator values ...

In view of the amendment to claim 39 and the above remarks, is it respectfully submitted that the rejection of claims 39 and 41-45 has been overcome.

## **2. New Claims are Patentable**

The new claims have been added so that the application includes claims in a variety of claim formats. The new claims are allowable for the same or similar reason that various ones of the previously pending claims are allowable.

New claims 51-72 have been added. New claims 51-56 are patentable for the same or similar reasons claim 1 was allowed.

New claims 57-59 are patentable for the same or similar reasons claim 30 was allowed.

New claims 60-72 are patentable for the same or similar reasons claim 39 is patentable.

**III. Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are in condition for allowance. Accordingly, it is requested that the Examiner pass this application to issue.

If there are any outstanding issues which need to be resolved to place the application in condition for allowance **the Examiner is requested to call (732-542-9070) and schedule an interview with Applicant's undersigned representative.** To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136 is hereby made and any required fee in regard to the extension or this amendment is authorized to be charged to the deposit account of Straub & Pokotylo, deposit account number 50-1049.

None of the statements or discussion made herein are intended to be an admission that any of the applied references are prior art to the present application and Applicants preserve the right to establish that one or more of the applied references are not prior art.

Respectfully submitted,

December 26, 2007

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this paper (and any accompanying paper(s)) is being facsimile transmitted to the United States Patent Office on the date shown below.

Michael P. Straub

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Michael P. Straub  
Signature

December 26, 2007  
Date